



WASHINGTON STATE REDISTRICTING COMMISSION

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COMMISSIONER RECOMMENDATIONS

GRAHAM H. FERNALD:

1. Make precinct boundaries follow census tracts.

No change could do more to speed the redistricting process than to make precinct boundaries and census tract boundaries coincide. The 1991 Commission staff spent more than two months attempting to reconcile these different boundaries. The method eventually chosen, while accepted by all four caucuses, was imprecise, and it led to imprecise political data.

2. Provide independent staff support for commissioners.

During the past redistricting process, staff support for the Commissioners was provided by the caucuses. This probably led to a somewhat greater emphasis on incumbent protection than is desirable. While the commissioners all showed independence from their caucuses, the process is so dependent on staff that caucus concerns played a significant role. If commissioners had knowledgeable independent staff, the independence of the Commission would be enhanced, and the product might be improved.

3. Employ an executive director to superintendent staff functions.

This Commission functioned with both an executive director and a director of operations, each of whom reported to the Commission chair. While this was a workable solution, the staff would have functioned more smoothly if the executive director had direct responsibility for operations (i.e., computers, and support of caucus computer operations) and for other functions. (This suggestion will probably not work effectively unless the executive director has substantial computer training and experience.)

4. Include a cartographer on the operation staff.

While the Commission's operations staff was knowledgeable about computers and their operations, it lacked mapping skills and expertise. Commission maps were not of particularly good quality compared with maps generated by some of the caucuses. Since redistricting is about maps as much as it is about anything, high quality maps promptly prepared are essential to effective operations.

MARY KAY BECKER:

1. Locate the Commission headquarters in Seattle.
2. Allow partisan negotiations to take place in private, but require that all Commission decisions to be made in meetings open to the public.

VEDA JELLEN:

1. Develop a plan to quickly process census data and develop the database for redistricting purposes.
2. Prepare maps and statistical reports comparing new data to existing (old) districts.
3. Change deadline for plan adoption to December 15 to allow staff holiday leave; separate deadlines for legislative and congressional district plans
4. Provide an office for each commissioner in the Commission headquarters and provide independent full-time staff for each commissioner who would work in Commission office.
5. Allow commission to conduct private meetings during periods of partisan negotiations.

BILL POLK:

1. Streamline the technical process if possible to accommodate the redistricting effort.
2. Require counties to draw precincts boundaries to follow census tracts to facilitate building the redistricting database.

SHELLY YAPP:

Introduction

Having participated as a member of the first bi-partisan Washington State Redistricting Commission, I feel that the Commission admirably performed its Constitutional functions with the result of the adopted Legislative and Congressional Redistricting Plans meet the legal mandates of the Commission and will serve the representational interest of the citizens of the state effectively. With this first process now complete and having had the opportunity to reflect on dynamics of the Commission's work, I would like to offer

several suggestions for consideration by the Legislature and for future Commissions. I have divided my comments according to whether or not a change in the state statute governing the Commission might be required or appropriate.

Recommendations and thoughts that do not entail legislative changes

1. Appointment of Commissioners

The leadership of the state House of Representatives and Senate are required to make their appointment of Commission members not later than January 15 of a year ending in one. Commissioners in turn are required to select a fifth member to serve as the non-voting Chair not later than January 31. The four voting Commissioners were appointed on January 15, leaving us only two weeks from start to finish in selecting a Chair.

While we were extremely lucky to have been able to select and obtain the consent of Graham Fernald to serve as chair, selection of this important position should not be left to chance. Two weeks is simply an unreasonably short time frame to enable a newly appointed Commission to identify candidates, conduct interviews, and make a selection. I strongly recommend that the Senate and House leadership agree among themselves that they will make these appointments not later than January 2, thereby giving the voting members four weeks to select the Chair.

2. Role of the Chairperson

Aside from stipulating that the Chairperson shall be a non-voting member of the Commission, the law does not define the Chairperson's role. This definition is left to the four voting Commissioners and I believe that is proper. My comments, therefore, are ones of advice to future Commissioners.

The bi-partisan nature of the Commission with an equal balance of Democrats and Republicans is a major and critical strength of this new system. This balance should not be tipped by the Chairperson serving in an implicit role as the tie-breaker. The Chairperson must remain strictly non-partisan to garner the trust of the four voting members and allow the balanced partisan process to work. This is a difficult role for the Chair and one that Mr. Fernald served without ever veering. Future Commissioners would be extremely fortunate to find someone with the skills and neutrality Mr. Fernald displayed.

This Commission's chairperson served two critical roles that were invaluable to the process and that I strongly recommend be replicated in future chairs. First, Mr. Fernald was the chief administrative officer for the Commission. As such, he assumed the responsibilities for leading the Commission with respect to its legal and procedural requirements (rule-making, etc.); to its budget preparation and management; to its liaison responsibilities with the state agencies, including the State Attorney General, the Secretary of State, and Office of Financial Management; and, to its staff and personnel management.

Second, Mr. Fernald was the chief public spokesperson for the Commission, not only in the conduct of our meetings, but with the press and public interest groups. In light of Mr. Fernald's strict non-partisan position, he was able to perform these functions in a fashion that significantly added to the Commission's credibility and shielded Commissioners from partisan bickering in the press.

3. Public Education and Participation

The role the Commission can play in both educating the public and being educated by citizens cannot be undervalued. I would strongly advise the next Commission to build on the foundation we have set by spending considerable time early on in the process reaching out to the citizenry and communities across the state. While no Commission will ever be able to satisfy all interests in the process of balancing the range of their legal mandates, the members will benefit immeasurably from hearing directly from local area citizens how they define their representational interests and their local communities of interest.

Special care must be taken by the Commissioners to fully understand, based on available technology, how local citizen groups can participate in the process by suggesting their own plans. It was actually more difficult for citizens to draw their own plans than we thought it would be, because the computer technology was not as "user friendly" as it first appeared. I expect this problem will be solved ten years from now, so the more important comment I would make is how critical it is for the Commission to make clear the advisory role of any citizen-submitted plan. While I found it extremely useful to see what plans others recommended, I was frustrated by the views of some participants that the Commission would simply wholesale adopt their proposals.

This Commission made substantial progress, but future Commissions will find it even more important, to reach out to citizens who have not been full parties in the electoral process in the past. From both a legal and philosophical position, it is critically important that the Commission make special efforts to involve racial and ethnic minority group citizens and rural and low-income citizens in the process of redistricting.

4. Location of Commission Headquarters

It seems like a small consideration, but the offices and central location of the Commission should accommodate the greatest convenience of access both to the Commissioner's and to the public. Olympia is not that place. I would recommend that the next Commission's headquarters be in the vicinity of SeaTac Airport. This allows for the most convenient and cost effective transportation center for the Commissioners, irrespective of residence and for the public.

5. Deadline for Completion of Plans

The statute establishes a deadline by which the Commission must complete its work-January 1st of the year ending in two. The old adage or principle that leads all of us to delay decisions right up to the deadline certainly operated in our case.

Frankly, this particular deadline date is a terrible one both for the Commissioners and for the public. I would like to see future Commissions impose and stick to an earlier deadline, or for the Legislature to set an earlier deadline, say November 15th or December 1st. I admit I'm not sure this would work, unless deadlines were changed by statute, but I would strongly advise that future Commissions and the public would benefit from a public commitment to a schedule that doesn't use Christmas, New Year's Eve, and New Years Day as obstacles.

6. Use of Political Data/Election Results

On analytical tool in the process of redistricting, historical electoral or political data, was not as accessible to the public in this round as we had intended. Election results for past races should be available to the public, so that citizens can independently judge whether the Commission has met its requirements of non-discrimination as to party and encouraged electoral participation.

Based on my experience in this process, I would also encourage the Commissioners to try (this may not be feasible) to settle early-on in their process how they will commonly measure partisan political balance.

Recommendations and thoughts entailing legislative change

1. Distinction Between Legislative and Congressional Plans

Based on my experience as a commissioner, I think the public interest might be best served by consideration of two statutory changes related to the Commission's duties to formulate a Congressional and a Legislative Plan.

First, I think consideration should be given to separate deadlines for the two plans. While this could be accomplished via administrative determination by the Commission, realistically, setting different deadlines would be more effective if established by statute. Staging deadlines for the plans, and I would recommend the Congressional Plan be first, would aid the Commission's focus on the very different considerations that affect drawing nine districts for federal representation versus forty-nine districts for State Representation.

Second, I would recommend, as I believe was actually intended by the constitutional Amendment and the State statute establishing the Commission, that the two plans be considered separate Commission tasks, such that if only one of the two plans is agreed upon by a majority of the Commissioners it can be submitted to the Legislature, while the plan which cannot agree goes to the State Supreme court.

Both these suggestions derive from my experience and beliefs that very different considerations go into drawing the Congressional and the Legislative Plan. And, second, the baby should not be thrown out with the bath—that is, a plan the Commissioners have agreed on should not have to be thrown to the Court simply as a result of the possible agreement on the other plan can't be achieved.

Federal issues and the responsibilities of Congress people are very different from those of State Legislators, and the population-size on the districts, with Congressional districts more than seven times the size of Legislative Districts, makes the definition of communities interests very different. Both frameworks are extremely important in each context, but they are very different and deserve separate and distinct attention. The Commission's failure to reach agreement on one plan should not jeopardize the other, if Commission accord on the plan can be achieved.

2. Explicit Recognition in State Law of the Federal Voting Rights Act

The state and federal Constitutions and State and federal law establish the legal guidelines and criteria for preparation of redistricting plans. While each of the criterion are important and each was weighed by the Commission as we prepared our plans, Court decisions clearly give primacy to two considerations—one person one vote and nondiscrimination/non-dilution of racial and language minority representational interests.

While the State statute explicitly refers to the former and requires conformation with the federal law, it does not prominently and explicitly feature requirements of the federal Voting Rights Act. I believe this omission lead to some confusion on the part of citizens who participated in the redistricting process. I would recommend that the State law be amended to incorporate the federal criteria, so that the public can find in one place the full range of legal parameters that guide the redistricting process. I would further recommend that the primacy of the two key legal mandates be more clearly featured in the law.

3. Political Considerations in Drawing the Plan

State law speaks to partisan political consideration in the redistricting process in three ways. First, the voting members of the Commission are appointed on a partisan basis such that Democrats and Republicans are equally represented. Second, the law requires that districts not be drawn so as to discriminated against any political party. Finally, the law encourages the Commission to seek political competition in the drawing of boundaries.

The law does not, but I believe should, speak to the treatment of incumbents in the drawing of boundaries. I recognize this is a sensitive issue and need not be explicitly addressed in the law. However, I personally believe that it is not the job of the Commission to intentionally “unelect” current office holders by virtue of the way the district lines are drawn, unless such result is necessary to achieve other legal mandates against which the Commission’s product is to be measured. I, for one, would like to see this principle reflected in the law.

4. Commission Negotiation Process

Based on my experience, it is a reality that Commission members must be able to talk among themselves in private in order to explore the potential for compromise that is necessary to achieve accord on a redistricting plan. The ability to conduct these negotiations is too narrowly circumscribed, in my opinion, by the blanket application of the Open Meetings Act to the Commission.

I realize I am treading on sacred ground to suggest some form of partial exemption for the Commission to the Open Meetings Act. However, I think adequate protections for the public can be combined with the realistic needs of Commissioners, without diminishing the public’s legitimate interests in an open process. So, for example, assurance that no decisions can be made in private could be protected and a requirement might be added for a hearing on a proposed plan before it can be voted on in public.

I simply believe that cynicism grows when the reality of governmental processes diverges from a simple reading of the legal process requirements. The Commission can function, as it did this time, in strict conformance with the letter of the law. But, it would be preferable in my mind, and indeed more respectful of the public’s intelligence, if the legal requirements for the conduct of the Commission’s work reflected the reality of the need for Commissioners to debate and discuss their formulative thoughts with each other in private.

5. Multi-Member Districts

While I think a State Constitutional amendment might be required to establish single-member districts for the State House of Representatives, I believe serious consideration should again be given to such a change. I recognize that in this redistricting process we were mandated to eliminate the two remaining “A & B” districts. And, I have been told by those with more partisan political wisdom than I that establishing single-member House districts might disadvantage Democrats. Nonetheless, I think the State runs the risk of a court overturning a redistricting plan that is not based on single-member districts.

Furthermore, I personally believe that citizens interests in general and participation in the electoral process by racial and language minority citizens would be advanced by single-member House districts. The smaller a community of interest is, the more cohesive it is and the more easily defined. Particularly where there are geographic concentrations of racial or language minority groups who could constitute a majority or more of a single-member district but whose electoral influence is diluted in a multi-member district, representational interest would be served by smaller House districts.